

STATEMENT OF EMERGENCY

907 KAR 1:626E

(1) This emergency administrative regulation is being promulgated as a companion to 907 KAR 1:026E (Dental Services). 907 KAR 1:026E enables the Department for Medicaid Services to establish limitations on dental services in conjunction with 907 KAR 1:900E (KyHealth Choices Benefit Packages). This administrative regulation alters dental service reimbursement to promote dental coverage access for individuals under twenty-one (21) years of age, to enhance reimbursement of disabling malocclusions and to enhance coverage for pregnant women.

(2) This action must be taken on an emergency basis to ensure the health and welfare of Medicaid-covered pregnant women and individuals under twenty-one (21) years of age.

(3) This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

(4) The ordinary administrative regulation is identical to this emergency administrative regulation.

Ernie Fletcher
Governor

Mark D. Birdwhistell, Secretary
Cabinet for Health and Family Services

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Physician and Special Services

4 (Emergency Amendment)

5 907 KAR 1:626E. Reimbursement of dental services.

6 RELATES TO: KRS 205.520, 42 C.F.R. 440.100, 447.200-205, 42 U.S.C. 1396a-d

7 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)[, ~~EO 2004-~~
8 ~~726~~]

9 NECESSITY, FUNCTION, AND CONFORMITY: [~~EO 2004-726, effective July 9,~~
10 ~~2004, reorganized the Cabinet for Health Services and placed the Department for~~
11 ~~Medicaid Services and the Medicaid Program under the Cabinet for Health and Family~~
12 ~~Services.~~] The Cabinet for Health and Family Services, Department for Medicaid
13 Services, has the responsibility to administer the Medicaid Program. KRS 205.520(3)
14 authorizes the cabinet, by administrative regulation, to comply with any requirement that
15 may be imposed or opportunity presented by federal law for the provision of medical
16 assistance to Kentucky's indigent citizenry. This administrative regulation establishes
17 the method for determining the amount payable by the cabinet for a dental service.

18 Section 1. Definitions.

19 (1) "Comprehensive orthodontic procedure" means a medically-necessary dental
20 service for a dentofacial malocclusion which requires the application of braces for
21 correction.

(2) "Current Dental Terminology" or "CDT" means a publication by the American Dental Association of codes used to report dental procedures or services.

(3) "Debridement" means a procedure for removing thick or dense deposits on the teeth which is required when tooth structures are so deeply covered with plaque and calculus that a dentist or staff cannot check for decay, infections and gum disease. A debridement is not the same as a regular cleaning and is usually a preliminary or first treatment when an individual has developed very heavy plaque and or calculus.

(4) "Department" means the Department for Medicaid Services or its designated agent.

(5) "Disabling malocclusion" means that a patient:

(a) Has a deep impinging overbite that shows palatal impingement of the majority of the lower incisors;

(b) Has a true anterior open bite that does not include:

1. One (1) or two (2) teeth slightly out of occlusion; or

2. Where the incisors have not fully erupted;

(c) Demonstrates a significant antero-posterior discrepancy (Class II or III malocclusion that is comparable to at least one (1) full tooth Class II or III, dental or skeletal);

(d) Has an anterior crossbite that involves:

1. More than two (2) teeth in crossbite

2. Obvious gingival stripping; or

3. Recession related to the crossbite;

(e) Demonstrates handicapping posterior transverse discrepancies which may

include several teeth, one (1) of which shall be a molar and is handicapping in a function fashion as follows:

1. Functional shift;

2. Facial asymmetry;

3. Complete buccal or lingual crossbite; or

4. Speech concern;

(f) Has a significant posterior open bite that does not involve:

1. Partially erupted teeth; or

2. One (1) or two (2) teeth slightly out of occlusion;

(g) Except for third molars, has impacted teeth that will not erupt into the arches without orthodontic or surgical intervention;

(h) Has extreme overjet in excess of eight (8) to nine (9) millimeters and one (1) of the skeletal conditions specified in paragraph (a) through (g) of this subsection;

(i) Has trauma or injury resulting in severe misalignment of the teeth or alveolar structures, and does not include simple loss of teeth with no other affects;

(j) Has a congenital or developmental disorder giving rise to a handicapping malocclusion;

(k) Has a significant facial discrepancy requiring a combined orthodontic and orthognathic surgery treatment approach; or

(l) Has developmental anodontia in with several congenitally missing teeth resulting in a handicapping malocclusion or arch deformation.

(6) [(4)] "Incidental" means that a medical procedure is performed at the same time as a primary procedure and:

1 (a) Requires little additional practitioner resources; or

2 (b) Is clinically integral to the performance of the primary procedure.

3 (7) ~~[(5)]~~ "Integral" means that a medical procedure represents a component of a more
4 complex procedure performed at the same time.

5 (8) ~~[(6)]~~ "Manually priced" or "MP" means that a procedure is priced according to
6 complexity.

7 (9) ~~[(7)]~~ "Medically necessary" or "medical necessity" means that a covered benefit is
8 determined to be needed in accordance with 907 KAR 3:130.

9 (10) ~~[(8)]~~ "Mutually exclusive" means that two (2) procedures:

10 (a) Are not reasonably performed in conjunction with one another during the same
11 patient encounter on the same date of service;

12 (b) Represent two (2) methods of performing the same procedure;

13 (c) Represent medically impossible or improbable use of CDT codes; or

14 (d) Are described in CDT as inappropriate coding of procedure combinations.

15 (11) ~~[(9)]~~ "Prepayment review" or "PPR" means a departmental review process of a
16 claim to determine if the requirements established in 907 KAR 1:026 have been met
17 prior to authorizing payment.

18 (12) ~~[(10)]~~ "Prior authorization" or "PA" means approval which a provider shall obtain
19 from the department before being reimbursed for a covered service.

20 (13) ~~[(11)]~~ "Provider" is defined in KRS 205.8451(7).

21 (14) ~~[(12)]~~ "Recipient" is defined in KRS 205.8451(9).

22 (15) ~~[(13)]~~ "Timely filing" means receipt of a claim by Medicaid:

23 (a) Within twelve (12) months of the date the service was provided;

1 (b) Within twelve (12) months of the date retroactive eligibility was established; or

2 (c) Within six (6) months of the Medicare adjudication date if the service was billed to
3 Medicare.

4 (16) ~~[(14)]~~ "Usual and customary charge" means the uniform amount which the
5 individual dentist charges in the majority of cases for a specific dental procedure or
6 service.

7 Section 2. Reimbursement.

8 (1) Reimbursement for a covered service shall be the lesser of the:

9 (a) Dentist's usual and customary charge;

10 (b) Reimbursement limits specified in Sections 3 and 4 of this administrative
11 regulation;

12 (c) A manually priced amount; or

13 (d) A prior authorized fee.

14 (2) If a rate has not been established for a covered dental service, the department
15 shall set an upper limit for the procedure by:

16 (a) Averaging the reimbursement rates assigned to the service by three (3) other
17 payer or provider sources; and

18 (b) Comparing the calculated average obtained from these three (3) rates to rates of
19 similar procedures paid by the department.

20 (3) If cost sharing is required, the cost sharing shall be in accordance with 907 KAR
21 1:604 ~~[In accordance with 907 KAR 1:604, if a copayment is required, reimbursement~~
22 ~~shall be reduced by the amount of the copayment].~~

23 (4) For a service covered under Medicare Part B, reimbursement shall be in

accordance with 907 KAR 1:006.

(5) A service which is not billed within timely filing requirements shall not be reimbursed.

(6) If performed concurrently, separate reimbursement shall not be made for a procedure that has been determined by the department to be incidental, integral, or mutually exclusive to another procedure.

Section 3. Reimbursement Rates for Dental Services.

(1) The following maximum upper limits for reimbursement shall apply for a service provided to a recipient under twenty-one (21) years of age:

<u>Kentucky Medicaid Dental Services</u>		
<u>Description</u>	<u>Upper Limit</u>	<u>Authorization Requirement</u>
<u>Diagnostic Procedures</u>		
<u>Limited oral evaluation</u> <u>(trauma related injuries</u> <u>only)</u>	<u>\$33</u>	<u>PPR required</u>
<u>Comprehensive oral</u> <u>evaluation</u>	<u>\$26</u>	
<u>Intraoral complete series</u>	<u>\$63.70</u>	
<u>Intraoral periapical, first</u> <u>film</u>	<u>\$10.40</u>	
<u>Intraoral periapical, each</u> <u>additional film</u>	<u>\$7.80</u>	

<u>Bitewing, single film</u>	<u>\$9.10</u>	
<u>Bitewing, 2 films</u>	<u>\$18.20</u>	
<u>Bitewing, 4 films</u>	<u>\$29.90</u>	
<u>Panoramic film</u>	<u>\$39</u>	<u>PA required for ages 5 and under</u>
<u>Cephalometric film</u>	<u>\$61.10</u>	
<u>Preventative Procedures</u>		
<u>Prophylaxis, 14 - 20</u>	<u>\$48.10</u>	
<u>Prophylaxis, 13 and under</u>	<u>\$48.10</u>	
<u>Topical fluoride with prophylaxis</u>	<u>\$48.10</u>	
<u>Sealant per tooth (ages 5- 20)</u>	<u>\$19.50</u>	
<u>Space maintainer, fixed unilateral</u>	<u>\$135.20</u>	
<u>Space maintainer, fixed bilateral</u>	<u>\$262.60</u>	
<u>Space maintainer, removable unilateral</u>	<u>\$134</u>	
<u>Space maintainer, removable bilateral</u>	<u>\$202</u>	
<u>Restorative Procedures</u>		

<u>Amalgam, 1 surface</u>	<u>\$49.40</u>	
<u>Amalgam, 2 surfaces</u>	<u>\$65.00</u>	
<u>Amalgam, 3 surfaces</u>	<u>\$76.70</u>	
<u>Amalgam, 4 or more surfaces</u>	<u>\$93.60</u>	
<u>Resin, 1 surface, anterior</u>	<u>\$57.20</u>	
<u>Resin, 2 surfaces, anterior</u>	<u>\$71.50</u>	
<u>Resin, 3 surfaces, anterior</u>	<u>\$85.80</u>	
<u>Resin, 4 or more surfaces, anterior</u>	<u>\$101.40</u>	
<u>Resin, 1 surface, posterior</u>	<u>\$57.20</u>	
<u>Resin, 2 surfaces, posterior</u>	<u>\$71.50</u>	
<u>Resin, 3 surfaces, posterior</u>	<u>\$85.80</u>	
<u>Resin, 4 or more surfaces, posterior</u>	<u>\$101.40</u>	
<u>Prefab stainless steel crown primary</u>	<u>\$119.60</u>	
<u>Prefab stainless steel crown permanent</u>	<u>\$133.90</u>	
<u>Prefab resin crown</u>	<u>\$113.10</u>	

<u>Pin retention, per tooth, in add. to restoration</u>	<u>\$13</u>	
<u>Endodontic Procedures</u>		
<u>Pulp cap direct</u>	<u>\$17</u>	
<u>Therapeutic pulpotomy</u>	<u>\$67.60</u>	
<u>Root canal therapy anterior</u>	<u>\$274.30</u>	
<u>Root canal therapy bicuspid</u>	<u>\$344.50</u>	
<u>Root canal therapy molar</u>	<u>\$481</u>	
<u>Apicoectomy anterior</u>	<u>\$201.50</u>	
<u>Apicoectomy, bicuspid first root</u>	<u>\$201.50</u>	
<u>Apicoectomy, molar first root</u>	<u>\$201.50</u>	
<u>Apicoectomy root surgery molar</u>	<u>\$201.50</u>	
<u>Apicoectomy, per tooth each additional root</u>	<u>\$197</u>	
<u>Periodontic Procedures</u>		

<u>Gingivectomy, gingivoplasty per quadrant</u>	<u>\$336.70</u>	<u>PPR required</u>
<u>Gingivectomy, gingivoplasty per tooth</u>	<u>\$135.20</u>	<u>PPR required</u>
<u>Periodontal scaling and root planing per quadrant</u>	<u>\$101.40</u>	<u>PA required</u>
<u>Full mouth debridement</u>	<u>\$68.50</u>	<u>Pregnant women only</u>
<u>Removable Prosthodontic Procedures</u>		
<u>Repair resin denture base</u>	<u>\$61.10</u>	
<u>Repair cast framework</u>	<u>\$97.50</u>	
<u>Replace broken teeth, per tooth</u>	<u>\$36.40</u>	
<u>Reline complete maxillary denture</u>	<u>\$128.70</u>	
<u>Reline complete mandibular denture</u>	<u>\$128.70</u>	
<u>Interim partial upper</u>	<u>\$319.80</u>	
<u>Interim partial lower</u>	<u>\$336.70</u>	

<u>Maxillofacial Prosthetic Procedures</u>		
<u>Nasal prosthesis</u>	<u>\$2,036</u>	
<u>Auricular prosthesis</u>	<u>\$1,881</u>	
<u>Facial prosthesis</u>	<u>\$3,408</u>	
<u>Obturator (temporary)</u>	<u>\$1121.90</u>	
<u>Obturator (permanent)</u>	<u>\$1,992</u>	
<u>Mandibular resection prosthesis</u>	<u>\$1,660</u>	
<u>Speech aid-pediatric (13 and under)</u>	<u>\$2,036</u>	
<u>Speech aid (14 - 20)</u>	<u>\$2,036</u>	
<u>Palatal augmentation prosthesis</u>	<u>\$1,550</u>	
<u>Palatal lift prosthesis</u>	<u>\$1,836</u>	
<u>Oral surgical splint</u>	<u>\$896</u>	
<u>Unspecified maxillofacial prosthetic procedure</u>	<u>MP</u>	<u>PPR required</u>
<u>Oral and Maxillofacial Surgery Procedures</u>		

<u>Extraction, deciduous tooth</u>	<u>\$49.40</u>	
<u>Extraction, erupted tooth or exposed root</u>	<u>\$49.40</u>	
<u>Surgical removal of erupted tooth</u>	<u>\$93.60</u>	
<u>Surgical removal of impacted tooth with mucoper flap</u>	<u>\$93.60</u>	
<u>Removal of impacted tooth (soft tissue)</u>	<u>\$127.40</u>	
<u>Removal of impacted tooth (partially bony)</u>	<u>\$179.40</u>	
<u>Removal of impacted tooth (completely bony)</u>	<u>\$215.80</u>	
<u>Removal of impacted tooth (comp. bony or unusual)</u>	<u>\$222.30</u>	
<u>Surgical access of an unerupted tooth</u>	<u>MP</u>	<u>PPR required</u>
<u>Surgical removal of residual tooth roots</u>	<u>\$107.90</u>	

<u>Oroantral fistula closure</u>	<u>\$135.20</u>	
<u>Alveoplasty in conjunction with extraction per quadrant</u>	<u>\$101.40</u>	
<u>Alveoplasty not in conjunction with extraction per quadrant</u>	<u>\$101.40</u>	
<u>Excision of benign lesion</u>	<u>\$87.10</u>	
<u>Incision and drainage of abscess (intraoral)</u>	<u>\$67.60</u>	
<u>Incision and drainage of abscess (extraoral)</u>	<u>\$80.60</u>	
<u>Removal of foreign body</u>	<u>\$201.50</u>	
<u>Temporomandibular splint therapy</u>	<u>\$424</u>	<u>PA required</u>
<u>Suture of recent small wound</u>	<u>\$67.60</u>	
<u>Frenulectomy</u>	<u>\$167.60</u>	
<u>Orthodontic Procedures</u>		
<u>Removable appliance therapy</u>	<u>\$362</u>	<u>PA required</u>

<u>Fixed appliance therapy</u>	<u>\$259</u>	<u>PA required</u>
<u>Preorthodontic exam and treatment plan</u>	<u>PA Fee</u>	<u>PA required</u>
<u>Orthodontic treatment</u>	<u>PA Fee</u>	<u>PA required</u>
<u>Unspecified orthodontic procedure-final 1/3</u>	<u>PA Fee</u>	<u>PA required</u>
<u>Adjunctive General Services</u>		
<u>Palliative treatment of dental oral pain</u>	<u>\$27.30</u>	
<u>Intravenous sedation</u>	<u>\$158.60</u>	
<u>Hospital call</u>	<u>\$67.60</u>	

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(2) The following maximum upper limits for reimbursement shall apply for a service

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provided to a recipient twenty-one (21) years of age and older [be applicable]:

Kentucky Medicaid Dental Services		
Description	Upper Limit	<u>Authorization Requirement</u>

Diagnostic Procedures		
Limited oral evaluation (trauma related injuries only)	\$33	PPR required
Comprehensive oral evaluation	\$26	
Intraoral complete series	\$49	
Intraoral periapical, first film	\$8	
Intraoral periapical, each additional film	\$6	
Bitewing, single film	\$7	
Bitewing, 2 films	\$14	
Bitewing, 4 films	\$23	
Panoramic film	\$39	[PA required for ages 5 and under]
Cephalometric film	\$47	
Preventative Procedures		
Prophylaxis[, 14 and over]	\$37	
[Prophylaxis, 13 and	[\$37]	

under]		
[Sealant per tooth (ages 5-20)]	[\$15]	
[Space maintainer, fixed unilateral]	[\$104]	
[Space maintainer, fixed bilateral]	[\$202]	
[Space maintainer, removable unilateral]	[\$134]	
[Space maintainer, removable bilateral]	[\$202]	
Restorative Procedures		
Amalgam, 1 surface	\$38	
Amalgam, 2 surfaces	\$50	
Amalgam, 3 surfaces	\$59	
Amalgam, 4 or more surfaces	\$72	
Resin, 1 surface, anterior	\$44	
Resin, 2 surfaces, anterior	\$55	
Resin, 3 surfaces, anterior	\$66	
Resin, 4 or more surfaces, anterior	\$78	
Resin, 1 surface, posterior	\$44	

Resin, 2 surfaces, posterior	\$55	
Resin, 3 surfaces, posterior	\$66	
Resin, 4 or more surfaces, posterior	\$78	
[Prefab stainless steel crown primary]	[\$92]	
[Prefab stainless steel crown permanent]	[\$103]	
[Prefab resin crown]	[\$87]	
Pin retention, per tooth, in add. to restoration	\$13	
Endodontic Procedures		
[Pulp cap direct]	[\$17]	
[Therapeutic pulpotomy]	\$52	
[Root canal therapy anterior]	[\$214]	
[Root canal therapy bicuspid]	[\$265]	
[Root canal therapy molar]	[\$370]	

Apicoectomy anterior	\$155	
Apicoectomy, bicuspid first root	\$155	
Apicoectomy, molar first root	\$155	
Apicoectomy, per tooth each additional root	\$197	
Periodontic Procedures		
<u>Full mouth debridement</u>	<u>\$68.50</u>	<u>Pregnant women only</u>
Gingivectomy, gingivoplasty per quadrant	\$259	PPR required
Gingivectomy, gingivoplasty per tooth	\$104	PPR required
Periodontal scaling and root planing per quadrant	\$78	PA required
Removable Prosthodontic Procedures		
[Replace missing or	[\$31]	

broken teeth on denture]		
[Repair resin denture] base	[\$47]	
[Repair cast framework]	[\$75]	
[Replace broken teeth, per tooth]	[\$28]	
[Reline complete maxillary denture]	[\$99]	
[Reline complete mandibular denture]	[\$99]	
[Interim partial upper]	[\$246]	
[Interim partial lower]	[\$259]	
Maxillofacial Prosthetic Procedures		
Nasal prosthesis	\$2,036	
Auricular prosthesis	\$1,881	
Facial prosthesis	\$3,408	
Obturator (temporary)	\$863	
Obturator (permanent)	\$1,992	
Mandibular resection prosthesis	\$1,660	

[Speech aid-pediatric (13 and under)]	[\$2,036]	
Speech aid[adult (14 and over)]	\$2,036	
Palatal augmentation prosthesis	\$1,550	
Palatal lift prosthesis	\$1,836	
Oral surgical splint	\$896	
Unspecified maxillofacial prosthetic procedure	MP	PPR required
Oral and Maxillofacial Surgery Procedures		
Extraction, deciduous tooth	\$38	
Extraction, erupted tooth or exposed root	\$38	
Surgical removal of erupted tooth	\$72	
Removal of impacted tooth (soft tissue)	\$98	
Removal of impacted tooth (partially bony)	\$138	

Removal of impacted tooth (completely bony)	\$166	
Removal of impacted tooth (comp. bony or unusual)	\$171	
Surgical access of an unerupted tooth	MP	PPR required
Surgical removal of residual tooth roots	\$83	
Oroantral fistula closure	\$104	
Alveoplasty in conjunction with extraction per quadrant	\$78	
Alveoplasty not in conjunction with extraction per quadrant	\$78	
Excision of benign lesion	\$67	
Incision and drainage of abscess (intraoral)	\$52	
Incision and drainage of abscess (extraoral)	\$62	
Removal of foreign body	\$155	
[Temporomandibular	[\$424]	[PA required]

splint therapy]		
Suture of recent small wound	\$52	
Frenulectomy	\$129	
[Orthodontic Procedures]		
[Removable appliance therapy]	[\$362]	[PA required]
[Fixed appliance therapy]	[\$259]	[PA required]
[Preorthodontic exam and treatment plan]	[PA Fee]	[PA required]
[Orthodontic treatment]	[PA Fee]	[PA required]
[Unspecified orthodontic procedure-final 1/3]	[PA Fee]	[PA required]
Adjunctive General Services		
Palliative treatment of dental oral pain	\$21	
[Intravenous sedation]	[\$122]	
Hospital call	\$52	

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2 (3) ~~[(2)]~~ A comprehensive orthodontic procedure shall be reimbursed as follows:

3 (a) Except as specified in paragraph (b) of this subsection, an orthodontic
4 consultation, including examination and development of a treatment plan, \$112;

5 (b) The Medicaid reimbursement rate for an orthodontic consultation shall not exceed
6 fifty-six (56) dollars if:

7 1. The provider determines that comprehensive orthodontic treatment services are
8 not needed;

9 2. The provider is unable or unwilling to provide the needed orthodontic treatment
10 services; or

11 3. Prior authorization for comprehensive orthodontic services is not approved by the
12 department or is not requested by the provider;

13 (c) A service for an early phase of moderately severe or severe disabling
14 malocclusion:

15 1. \$1,367 for an orthodontist; or

16 2. \$1,234 for a general dentist;

17 (d) A service for a moderately severe disabling malocclusion:

18 1. \$1,825 for an orthodontist; or

19 2. \$1,659 for a general dentist; or

20 (e) A service for a severe disabling malocclusion:

21 1. \$3,000 total ~~[\$2,754]~~ for an orthodontist; or

22 2. \$2,674 total ~~[\$2,455]~~ for a general dentist.

23 (4) ~~[(3)]~~ Reimbursement for comprehensive orthodontic treatment shall consist of two

1 (2) payments:

2 (a) The first payment shall be two-thirds (2/3) of the prior authorized payment
3 amount;

4 (b) The second payment shall:

5 1. Be one-third (1/3) of the prior authorized payment amount; and

6 2. Not be billed until six (6) monthly visits are completed following the banding date;
7 and

8 (c) The two (2) payments shall be inclusive of all services associated with the
9 comprehensive orthodontic treatment.

10 Section 4. Oral Surgeons. Except for a service specified in 907 KAR 1:026, Section
11 12(8), a service provided by an oral surgeon shall be reimbursed in accordance with
12 907 KAR 3:010.

13 Section 5. Supplemental Payments.

14 (1) In addition to a payment made pursuant to Sections 2 through 4 of this
15 administrative regulation, the department shall make a supplemental payment to a
16 dental school faculty dentist who is employed by a state-supported school of dentistry in
17 Kentucky.

18 (2) The supplemental payment shall be:

19 (a) In an amount which when combined with other payments made in accordance
20 with this administrative regulation, does not exceed the dentist's charge for a service he
21 has provided:

22 1. As a dental school faculty; and

23 2. For which the payment is made directly or indirectly to the dental school;

1 (b) Based on the funding made available through an intergovernmental transfer of
2 funds for this purpose by a state-supported school of dentistry in Kentucky; and

3 (c) Made on a quarterly basis.

4 Section 6. Appeal Rights. An appeal of a department decision regarding a Medicaid
5 provider based upon an application of this administrative regulation shall be in
6 accordance with 907 KAR 1:671.

907 KAR 1:626E

Reviewed:

Date

J. Thomas Badgett, MD, PhD, Acting Commissioner
Department for Medicaid Services

Date

Mike Burnside, Undersecretary
Administrative and Fiscal Affairs

APPROVED:

Date

Mark D. Birdwhistell, Secretary
Cabinet for Health and Family Services

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 907 KAR 1:626E

Cabinet for Health Services

Department for Medicaid Services

Agency Contact Person: Stuart Owen or Stephanie Brammer-Barnes (502-564-6204)

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes reimbursement criteria for services provided by dentists to Medicaid recipients.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with federal and state laws that require provision of dental services to Kentucky's indigent citizenry.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation fulfills requirements implemented in KRS 194A.050(1) related to the execution of policies to establish and direct health programs mandated by federal law.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the reimbursement criteria for payment of medically necessary dental services to Medicaid recipients.
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
 - (a) How the amendment will change this existing administrative regulation: This amendment is being promulgated as a companion to 907 KAR 1:026E (Dental Services). 907 KAR 1:026E enables the Department for Medicaid Services to establish limitations on dental services in conjunction with 907 KAR 1:900E (KyHealth Choices Benefit Packages). This administrative regulation increases reimbursement for dental services to individuals under twenty-one (21) years of age, increases reimbursement for a disabling malocclusion, and establishes reimbursement (in conjunction with 907 KAR 1:026) for a full mouth debridement for pregnant women.
 - (b) The necessity of the amendment to this administrative regulation: The amendments are necessary in conjunction with a companion administrative regulation (907 KAR 1:026E – Dental Services) which is a component of the Medicaid transformation known as KyHealth Choices. The amendments are necessary to promote dental coverage access for individuals under twenty-one (21) years of age as well as to enhance coverage for pregnant women.
 - (c) How the amendment conforms to the content of the authorizing statutes: The amendments promote dental coverage access for individuals under twenty-one (21) years of age as well as to enhance coverage for pregnant women in accordance with authorizing statutes.
 - (d) How the amendment will assist in the effective administration of the statutes:

The amendments promote dental coverage access for individuals under twenty-one (21) years of age as well as to enhance coverage for pregnant women in accordance with authorizing statutes.

- (3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: This amendment will affect all Medicaid program dental providers, recipients under twenty-one (21) years of age and pregnant women receiving dental services.
- (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Dental reimbursement rates will increase for services provided to individuals under twenty-one (21) years of age, dental providers who perform a full mouth debridement on pregnant women will now be reimbursed for the procedure and providers will receive a higher reimbursement for a disabling malocclusion service.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
 - (a) Initially: This amendment is being implemented in conjunction with a companion administrative regulation (907 KAR 1:026E – Dental Services) which the Department for Medicaid Services (DMS) estimates could save approximately \$12.4 million (\$8.47 million federal funds; \$3.93 million state funds) annually; however, DMS anticipates that the reimbursement increases implemented in this administrative regulation could cost approximately \$8.1 million (\$5.5 million federal funds; \$2.6 million state funds) annually.
 - (b) On a continuing basis: This amendment is being implemented in conjunction with a companion administrative regulation (907 KAR 1:026E – Dental Services) which the Department for Medicaid Services (DMS) estimates could save approximately \$12.4 million (\$8.47 million federal funds; \$3.93 million state funds) annually; however, DMS anticipates that the reimbursement increases implemented in this administrative regulation could cost approximately \$8.1 million (\$5.5 million federal funds; \$2.6 million state funds) annually.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under the Social Security Act, Title XIX and matching funds of general fund appropriations.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The current fiscal year budget will not need to be adjusted to provide funds for implementing this administrative regulation.

- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase fees.
- (9) Tiering: Is tiering applied? (Explain why tiering was or was not used)
Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The “equal protection” and “due process” clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.